

### **REMARKS**

This response is intended as a full and complete response to the final Office Action mailed June 5, 2008. In the Office Action, the Examiner notes that claims 1, 3-7, 10-13 and 15-17 are pending and rejected. By this response, Applicant has amended claims 1, 7 and 16 for clarification.

In view of both the amendments presented above and the following discussion, Applicant submits that none of the claims now pending in the application are anticipated under the provisions of 35 U.S.C. §102. Thus, Applicant believes that all of the claims are now in allowable form.

It is to be understood that Applicant, by amending the claims, does not acquiesce to the Examiner's characterizations of the art of record or to Applicant's subject matter recited in the pending claims. Further, Applicant is not acquiescing to the Examiner's statements as to the applicability of the prior art of record to the pending claims by filing the instant response including amendments.

### **Claim Objections**

Claims 1, 7 and 16 are objected to for various informalities. Applicant has amended the claims as suggested by the Examiner. As such, Applicant respectfully requests that the Examiner's objections be withdrawn.

### **35 U.S.C. §102 Rejection of Claims 1, 3-7, 10-13 and 15-17**

Claims 1, 3-7, 10-13 and 15-17 are rejected under 35 U.S.C. §102(e) as being anticipated by Strubbe (5,223,924, hereinafter "Strubbe '924) (incorporating by reference Strubbe et al. (5,047,867). The rejection is traversed.

Anticipation requires the presence in a single prior art disclosure of each and every element of the claimed invention, arranged as in the claim. The Strubbe '924 reference fails to disclose each and every element of the claimed invention, as arranged in independent claim 1.

Applicant's claim 1 recites:

1. A set top terminal for generating an interactive electronic program guide for display on a television connected to the set top terminal, the terminal comprising:

means for retrieving information via a program control information signal of a program selected from a plurality of programs and watched by a subscriber;

means for storing said information;

means for identifying frequently-watched programs most often watched by said subscriber based upon said stored information and tracking a number of times said subscriber watches a program;

means for receiving a television signal;

means for extracting individual programs from the television signal;

means for generating an electronic program guide for controlling display of content on a television screen, the guide comprising:

a favorites menu including names of programs available for selection, wherein the programs included in the favorites menu are based on the identified frequently-watched programs;

means for receiving selection signals from a user input of a program that will be broadcast at a future time selected from said favorites menu;

means for notifying said subscriber that a change of channel is imminent based upon nearing said future time of said program that will be broadcast at said future time; and

means for changing said channel to said program at said future time.

Strubbe '924 fails to teach or suggest at least "means for identifying frequently-watched programs most often watched by said subscriber based upon said stored information and tracking a number of times said subscriber watches a program," as recited in claim 1. The Examiner responds in the office action that the features upon which the applicant relies are not recited in the claims. The Applicant respectfully disagrees.

Independent claim 1 recites "means for identifying frequently-watched programs most often watched by said subscriber." The word "frequently" is defined as "many times." *Random House Webster's Unabridged Dictionary*, 767 (New York, 2001). Moreover, the word "frequently" is an adverb of "frequency," which is defined as "rate of occurrence." See *Id.* at 766. One skilled in the art knows that "rate" is a number or quantity per unit of something, e.g., time. Therefore, the limitation of "frequently-watched programs most often watched" clearly implies a number of times a program is watched by a subscriber and more specifically, those "most often watched" based upon

the identified number of times a program is watched by the subscriber.

Regardless, the Applicant herein amends claims 1, 7 and 16 to clarify the independent claims such that the claims explicitly recite that the “frequently-watched programs most often watched” is also based on tracking a number of times said subscriber watches a program. Consequently, the Applicant respectfully submits that Strubbe ‘924 fails to teach or suggest “means for identifying frequently-watched programs most often watched by said subscriber based upon said stored information and tracking a number of times said subscriber watches a program,” as previously argued.

Strubbe ‘924 discloses a user interface which can access downloaded TV program information and automatically correlate this information with the preferences of the user. The correlation is created by receiving input from a user as to whether the user “likes” or “dislikes” the program. (See Strubbe ‘924, col. 4, ll. 59-64). Alternatively, the system may automatically register a “like” response if a user records or watches a program for longer than a given amount of time. (See *Id.* col. 5, ll. 23-32).

The Examiner further highlights Strubbe ‘924 at column 5, lines 23-32. The Examiner asserts that Strubbe ‘924 teaches a passively monitoring a viewer in the above cited sections. Applicants respectfully submit that although Strubbe ‘924 at column 5, lines 23-32 may teach one method of passively monitoring a viewer, the method taught by Strubbe ‘924 is not the same as the method taught by Applicants’ invention.

To illustrate, Applicants’ invention teaches means for identifying frequently-watched programs most often watched by said subscriber based upon said stored information and tracking a number of times said subscriber watches a program. In other words, Applicants’ invention monitors the number of times (i.e. frequently watched) a program is watched. As a result, more accurate trends may be detected over a period of time.

In contrast, Strubbe ‘924 teaches that a “like” indication may be recorded when a viewer watches a program a single time for longer than a given amount of time. (See Strubbe ‘924, col. 5, ll. 23-32). Notably, this method may provide numerous false

positives and be less accurate than Applicants' invention. For example, a viewer watching a program for 15 minutes may never return to that program again, however, in Strubbe '924 the program will be identified as being "liked" by the viewer. Unlike Strubbe '924, the same program in Applicants' invention would probably not be identified as being "favorite" of the viewer because it was only watched once. In other words it would not be classified as a "frequently-watched program". Identifying "favorites" based on stored information over a period of time, as taught by Applicants' invention, provides a more accurate analysis of "favorites" than that taught by Strubbe '924.

As such, independent claim 1 is not anticipated by Strubbe '924. Independent claims 7 and 16 recite relevant limitations similar to those recited in independent claim 1. Accordingly, for at least the same reasons discussed above, independent claims 7 and 16 also are not anticipated by Strubbe '924.

Furthermore, claims 3-6, 10-13, 15 and 17 depend, directly or indirectly from independent claims 1, 7 and 16, while adding additional elements. Therefore, these dependent claims also are not anticipated by Strubbe '924 for at least the same reasons discussed above in regards to independent claims 1, 7 and 16. Therefore, Applicant respectfully requests that the Examiner's rejection be withdrawn.

**CONCLUSION**

Thus, Applicant submits that all of the claims presently in the application are in condition for allowance. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall or Jimmy Kim, at (732) 530-9404, so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: \_\_\_\_\_

8/27/08



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